

OKLAHOMA FUNERAL BOARD
3700 North Classen Blvd, Suite 175
Oklahoma City, Oklahoma 73118

NOTICE OF REGULAR MEETING

MEETING PLACE: Videoconference at

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

We ask that only the Respondents in a complaint use the video camera function. If calling in by telephone please call 1-408-418-9388; Access Code 1260612143. If attending in person at the physical location: Office of Chief Medical Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor Oklahoma City, OK 73105.

DATE & TIME: November 10, 2022 10:00AM

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on November 7, 2022 at 1:30PM. A copy of this agenda is available on the Funeral Board website at www.ok.gov/funeral

If attending via videoconference or via telephone, Continuing Education credit will not be provided for this meeting. If you plan to attend a Board meeting for Continuing Education credit and would like a rough estimate of the length of time Board staff estimates the meeting might last, please email your request to info@funeral.ok.gov.

*** This symbol denotes the application and/or applicant is not in compliance with 235:1-1-2 (c) (14 day Rule)

ORDER OF BUSINESS: The Board may discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or decide not to discuss any item on the agenda.

1. Roll Call
2. Approval of the October 13, 2022 Regular Board meeting minutes
3. Oklahoma Funeral Director Association Update from a Representative of OKFDA
4. Oklahoma Insurance Department Update from a Representative of OID

5. Review complaints with possible vote for probable cause or other action

23-14 – No Pricing on Caskets

23-15 – Not Paying Vendor

23-17 – Preneed Issues

23-19 – Not Paying Vendor

23-20 – Next of Kin Issues

23-21 – Preneed Issues

23-22 – Next of Kin Issues

6. Matters for consideration: Consent Order or Scheduling Order

At the conclusion of the parties' presentation and any questions or public discussion by the Board, the Board may in each complaint case:

- i. consider and vote on motion(s) to conduct executive session(s) pursuant to 25 O.S.2011, Section 307(B)(8) to engage in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;
- ii. if an executive session is held, designate a person to keep written minutes of the executive session;
- iii. consider and vote on motion(s) to exit executive session and return to open meeting; and
- iv. consider and vote on motion(s) regarding possible action to be taken regarding matter discussed in executive session.

6A. Complaint 19-36 Amy Stittsworth
Funeral Serv. & Cremation
Directors, Inc., Establishment, Enid;
Amy Stittsworth Funeral Serv. &
Cremation Directors, Inc, Owner,
Enid; William Stittsworth Jr. , FDIC,

Enid. Member Vice needs to be recused.

- 6B. Complaint 20-14 Schaudt's Glenpool Funeral Serv. & Cremation Care, Establishment, Glenpool; Cremation Care Centers, Crematory, Glenpool; Schaudt's Glenpool Funeral Service Inc., Owner, Glenpool; Daniel Schaudt and Stephen Schaudt, FDIC, Glenpool. Member Vice needs to be recused.
- 6C. Complaint 20-16 Schaudt's Glenpool Funeral Serv. & Cremation Care, Establishment, Glenpool; Cremation Care Centers, Crematory, Glenpool; Schaudt's Glenpool Funeral Service Inc., Owner, Glenpool; Daniel Schaudt and Stephen Schaudt, FDIC, Glenpool. Member Vice needs to be recused.
- 6D. Complaint 20-39 Amy Stittsworth Funeral Serv. & Cremation Directors, Inc., Establishment, Enid; Amy Stittsworth Funeral Serv. & Cremation Directors, Inc, Owner, Enid; William Stittsworth Jr. , FDIC, Enid. Member Vice needs to be recused.
- 6E. Complaint 21-55 Amy Stittsworth Funeral Serv. & Cremation Directors, Inc., Establishment, Enid; Amy Stittsworth Funeral Serv. & Cremation Directors, Inc, Owner, Enid; William Stittsworth Jr. , FDIC, Enid. Member Vice needs to be recused.

- 6F. Complaint 22-25 Alternatives
Cremation & Funeral Service,
Establishment, Cordell; Varner
Professional Services LLC, Owner,
Cordell; Richard Varner , FDIC,
Cordell. Member Matherly needs to
be recused.
- 6G. Complaint 22-38 Oklahoma
Mortuary Trade Service,
Establishment, OKC; Oklahoma
Mortuary Trade Service LLC, Owner,
OKC; John Astle, FDIC, Mustang;
Mackenzie Parks, OKC. Member
Matherly needs to be recused.
- 6H. Complaint 23-05 Oklahoma
Cremation Centers, Crematory,
Glenpool; Schaudt's Family Funeral
Service LLC, Owner, Glenpool; Lane
Pilkington, FDIC, Okmulgee;
Member Vice needs to be recused.

7. Vote to affirm or disaffirm the issuance of the following licenses,
registrations, certificates, dissolution or other action

A. Apprenticeship (Original)

- 1. Trysta Kershner, Anadarko, Ray & Marthas FH Anadarko
- 2. Patricia Smith, Mounds, Lawton-Ritter-Gray FH, Lawton
- 3. Jessica Brewer, Holdenville, Williamson-Spradlin, Wetumka
- 4. Patrick Griffin, Broken Arrow, Hayhurst FH, Broken Arrow
- 5. Abigail Kuhlman, Stillwater, Brown Dugger FH, Perry
- 6. Samantha Jacoben, OKC, Buchanan FS, OKC
- 7. Blake Frost, Checotah, Garrett Family FH, Checotah

B. Apprenticeship (1st extension)

1. Jeffery Wright, Spencer, McKay Davis, OKC
2. Matthew Taylor, Bartlesville, Davis Family FH, Bartlesville
3. Landis Thompson, Broken Arrow, Palmer Marler FH, Cushing
4. Amy Kinsey, Pryor, Rice FS, Claremore
5. Rachel Harris, Edmond, Barnes Friederich FH, MWC
6. Sarah Blank, Edmond, Corbett, OKC

C. Funeral Director and/or Embalmer (Reciprocal)

1. Kyle Dungan, Texas
2. Richard Kelley-Dixon, North Carolina (EM Only)
3. Stuart Thompson, Texas
4. Desirae Davis, Iowa (EM Only)

D. Funeral Director and/or Embalmer (Original)

1. Cadyn Brice, Enid
2. Amberlyn Campbell, Chandler
3. Paige Goodman, OKC
4. Kelsie Drake, Bixby(EM Only)

E. Establishments

1. Don Smith FH, Drumright, request to close establishment.
2. Shipman's Funeral & Cremation, Pryor, request to change FDIC from Steve Shipman to Christina Shipman

3. Trout Funeral Home, Blackwell, request to close establishment
4. Dighton Moore FS, Owasso, request for additional 90 days for temporary FDIC change from John Irby to Preston McCurtain

F. Crematories

1. McElyea and Owens Funeral Group Cremation Center, New Crematory, Shawnee, McElyea-Owens Funeral Group LLC, Owner, Michael McElyea, FDIC
 2. Shipman's Crematory, Pryor, request to change FDIC from Steve Shipman to Christina Shipman
-
8. **New Business.** Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda. 25 O.S. Section 311.9.
 9. **Executive Director's Report**
 - A. 2023 License Renewals
 - B. Agency Financial Update
 10. **Adoption of proposed language regarding the following Statute or Board Rule change:**
 - A. Change of age requirement for licensure as FD and/or EM from 20 to 18 in Statute
 - B. Change of Education requirement for licensure in Board Rules
 - C. Change of FDIC mileage from 60 miles to 90 miles in Board Rules
 11. **Discussion and possible action regarding request for interpretation of Board Rule OAC 235:10-3-3, request by David Stumpff**
 12. **Adjournment**

Tyler Stiles, MBA
Executive Director

The next regular meeting of the Oklahoma Funeral Board will be held:
December 8, 2022. Office of Chief Medical Examiner –OKC 921 N.E. 23rd Street
Conference Room – 1st Floor Oklahoma City, OK 73105.



MINUTES OF A REGULAR MEETING

OKLAHOMA FUNERAL BOARD
3700 N. Classen, Suite 175
Oklahoma City, Oklahoma 73118

October 13, 2022

BOARD MEMBERS

Tom Coble
Darin Corbett
Joe Highberger
Brent Matherly
Jim Roberts
Mike Sanders
Chad Vice

STAFF

Rochelle Covington
Tyler Stiles
Dustin Watters
Kylie Cooper, AAG
Liz Stevens, AAG

MEETING PLACE: MEETING PLACE: Videoconference at
<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>
If calling in by telephone please call 1-408-418-9388; Access Code 1260612143.
If attending in person at the physical location: Office of Chief Medical
Examiner OKC, 921 N.E. 23rd Street Conference Room 1st Floor
Oklahoma City, OK 73105.

A copy of this notice of meeting and agenda has been posted in a prominent location at the office of the Oklahoma Funeral Board, 3700 North Classen Blvd Suite 175, Oklahoma City, Oklahoma, on October 10, 2022 at 10:30AM. A copy of this agenda is available on the Funeral Board website at www.ok.gov/funeral

Continuing Education credit was not provided for this meeting if attended via videoconference or telephone.

President Roberts called the meeting to order at 10:00AM. Members Corbett, Highberger, Matherly, Roberts, Sanders, and Vice were present. Member Coble was not present. A quorum was always present

Motion by Highberger second by Sanders to approve the September 8, 2022 Regular Board meeting minutes. The motion passed unanimously.

Dustin Pierce with OKFDA provided the following update: Certified Celebrant Training-November 9-11 at the Aloft Hotel. Please see the OKFDA website for more details. Last Call CE-December 4th and 5th at Barnes Friederich Funeral Home. 6 hours of CE Each day. OKFDA launched their new website and management software. OKFDA.com

OID provided the following update: OID will have a meeting regarding statute changes on Nov. 8 that is open to the public.

Motion by Highberger second by Roberts to dismiss complaint 23-02 regarding Next of Kin Issues. The motion passed unanimously.

Motion by Highberger second by Matherly to find probable cause on complaint 23-03 regarding Missing Items. The motion passed unanimously.

Motion by Highberger second by Roberts to dismiss complaint 23-06 regarding Rude Funeral Director. The motion passed unanimously.

Motion by Highberger second by Matherly to find probable cause on complaint 23-08 regarding Body Intake Log Issues. The motion passed unanimously.

Motion by Highberger second by Matherly to dismiss complaint 23-09 regarding Next of Kin Issues. The motion passed unanimously.

Motion by Highberger second by Matherly to dismiss complaint 23-10 regarding Overcharging. The motion passed unanimously.

Motion by Highberger second by Matherly to dismiss complaint 23-11 regarding Missing Items. The motion passed unanimously.

Motion by Highberger second by Matherly to dismiss complaint 23-12 regarding Next of Kin Issues. The motion passed unanimously.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 22-41 Watts Funeral Home, Establishment, Kingston; Watts Funeral Home, LLC, Owner, Madill; Charles Watts, FDIC, Madill. Respondents did not appear. The prosecution was represented by Kylie Cooper, AAG. Liz Stevens, AAG, was the Board's legal advisor. Members Highberger, Matherly, Roberts, Sanders, and Vice heard the case. Member Corbett was recused from the case and he left the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Roberts to accept the Consent Order. The consent order consisted of the following: The agreed violations were: failing to have visible retail prices on caskets, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Jointly pay Administrative Penalty of \$2,000, and jointly pay Costs of \$500. The motion passed unanimously.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 22-42 Flanagan-Watts Funeral Home & Cremation Services, Establishment, Marietta; Flanagan-Watts Funeral Home, Inc., Owner, Marietta; David Brown, FDIC, Thackerville. Respondents did not appear. The prosecution was represented by Kylie Cooper, AAG. Liz Stevens, AAG, was the Board's legal advisor. Members Highberger, Matherly, Roberts, Sanders, and Vice heard the case. Member Corbett was recused from the case and he was already out of the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Sanders to accept the Consent Order. The consent order consisted of the following: The agreed violations were: failing to have a complete and up-to-date Body Intake Log, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Jointly pay Administrative Penalty of \$250, and jointly pay Costs of \$250. The motion passed unanimously.

Member Corbett reentered the room.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 22-47 Integrity Funeral Service, Establishment, Henryetta; Integrity Funeral Service, LLC, Owner, Henryetta; David Vanmeter, FDIC, Weleetka. Respondents did not appear. The prosecution was represented by Kylie Cooper, AAG. Liz Stevens, AAG, was the Board's legal advisor. Members Corbett, Highberger, Matherly, Sanders, and Vice heard the case. Member Roberts was recused from the case and he left the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Sanders to accept the Consent Order. The consent order consisted of the following: The agreed violations were: failing to have a complete and up-to-date Body Intake Log, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Jointly pay Administrative Penalty of \$500, and jointly pay Costs of \$250. The motion passed unanimously.

Regarding the matters for consideration: Consent Order or Scheduling Order: Complaint 23-01 Wilson-Little Funeral Home, Inc., Establishment, Newcastle; Wilson-Little Funeral Home, Inc., Owner, Purcell; Michael Tolle, FDIC, Purcell. Respondents did not appear. The prosecution was represented by Kylie Cooper, AAG. Liz Stevens, AAG, was the Board's legal advisor. Members Corbett, Highberger, Matherly, Sanders, and Vice heard the case. Member Roberts was recused from the case and he was already out of the room.

After the presentation of the agreed upon Consent Order, motion by Highberger second by Sanders to accept the Consent Order. The consent order consisted of the following: The agreed violations were: failing to have visible retail prices on caskets, violation of the Funeral Service Licensing Act, and Rules of the Board. The terms consisted of the following: Jointly pay Administrative Penalty of \$2,000, and jointly pay Costs of \$500. The motion passed unanimously.

Member Roberts reentered the room.

Motion by Highberger second by Roberts to approve the following: Apprenticeship (Original) Joshua Eastham, Tulsa, Gary Kelley's Add'vantage, Tulsa. The motion passed unanimously.

Motion by Highberger second by Roberts to approve the following: Apprenticeship (Original) Davis Quiroz, Edmond, Matthews FH, Edmond; Michael Bartgis, Pryor, Shipman's, Pryor (EM Only); Caitlin Dale, Pryor, Shipman's, Pryor (FD Only); Joe Lambert, Tulsa, Bixby South Tulsa FS, Bixby; Kenslie Villoni, Tulsa, Floral Haven, Broken Arrow; Serena Torres, OKC, McKay Davis, OKC; Riley Caple, (FD Only), Catoosa, Butler Stumpff Dyer, Tulsa; Karley Page, Edmond, Hahn-Cook, OKC; Dennis Baker, Kingfisher, Sanders, Kingfisher; Caitlin Bailey, Wellston, Boydston Bailey FH, Luther; Tierrika Hutton, OKC, Smith and Kernke, OKC; Colin Kirk, Vinita, Luginbuel, Vinita (FD Only). The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Apprenticeship (1st Extension) Catharine Babb, Edmond, Ford FS, Del City;

Benjamin Wilbourn, Lindsay, Wilbourn Family FH, Lindsay; Taylor Harris, Edmond, Buchanan, OKC; Jessie Hopkins, Hugo, Prater-Lampton-Mills-Coffey, Hugo; Jared Williams, Stratford, DeArman, Stratford; Nicholas Holdeman, Ames, Lanman, Helena; Lewis Robinson III, OKC, McKay Davis, OKC; Mathew Burch, Antlers, Serenity, Antlers. The motion passed unanimously.

Motion by Matherly second by Roberts to table the following: Apprenticeship (1st Extension). Jeffery Wright, Spencer, McKay Davis, OKC. The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Apprenticeship (1st Extension) Tyler Johnson, Commerce, Brown Winters, Miami; Graciela Guillen, Woodward, Billings FH, Woodward; Jordyn Coulson, Stillwater, Strode, Stillwater; John Davis, Hugo, Miller and Miller, Hugo; Samantha Davis, Swink, Miller and Miller, Hugo. The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Apprenticeship (3rd Extension) Daysha Ross, Stillwell, Reed Culver, Tahlequah. The motion passed unanimously.

Motion by Matherly second by Roberts to table the following: Funeral Director and/or Embalmer (Reciprocal), Kyle Dungan, Texas; Richard Kelley-Dixon, North Carolina (EM Only); Stuart Thompson, Texas. The motion passed unanimously.

Motion by Matherly second by Highberger to table the following: Funeral Director and/or Embalmer (Original), Carrie Davis, Owasso (FD Only); Cadyn Brice, Enid. The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Funeral Director and/or Embalmer (Original) Katlynn Chism, Midwest City (EM Only); Akeah Aschmeller, Edmond (FD Only); Tammy Marshall, Cordell (EM Only). The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Establishments, Whinery-Huddleston Funeral Service, Lawton, request to close establishment; Whinery-Huddleston Funeral Service, Lawton, New Establishment, Beacon Funeral Partners (Oklahoma) LLC, Amber Woommavovah, FDIC; County Cremation Service, Ponca City, request to change FDIC from Mike Phenix to Shayna Nicely; Marshall Funeral Home of Waynoka, request to close establishment; Marshall Funeral Home of Waynoka, Waynoka, New Establishment, E Labb Holdings, Inc., Owner, Linda

Marshall-Hill, FDIC, ; Marshall Funeral Home, Alva, request to close establishment; Marshall Funeral Home, Alva, New Establishment, E Labb Holdings, Inc., Owner, Linda Marshall-Hill, FDIC;; Stumpff-Skiatook Cremation and FH, request to change FDIC from Kristine Adams to Kendra Soley; Stumpff-Barnsdall FH, request to change FDIC from Scott Holz to Kendra Soley; Cremation Society of Oklahoma, Tulsa request to change FDIC from Cassandra Carter to Kristine Adams; Reynolds & Sons FS, Collinsville, request to close establishment; Hopkins-Reynolds Funeral Service, LLC, Collinsville, New Establishment, Hopkins-Reynolds Funeral Service, LLC, Owner, Harold Winton, FDIC; Forever Memories FS, Roland, request to close establishment; Schaudt's Glenpool-Bixby Funeral Service & Cremation Care Centers, Glenpool, New Establishment, Schaudt's Family Funeral Service, Inc., Owner, Daniel Schaudt, FDIC; Simplicity Natural Burial & Oklahoma Cremation Centers, Glenpool, New Establishment, Schaudt's Family Funeral Service, Inc., Owner, Jennifer Beaty, FDIC. The motion passed unanimously.

Motion by Matherly second by Highberger to approve the following: Crematories, Great Plains Cremation Service, Lawton, request to close crematory; Great Plains Cremation Service, Lawton, New Crematory, Beacon Funeral Partners (Oklahoma) LLC, Amber Woommavovah, FDIC; Parks Brothers Cremation Center of Oklahoma, Prague, request to close crematory; Parks Brothers Cremation Center of Oklahoma, Prague, Prague SGO LLC, Owner, Jerel Johnson, FDIC; Funeral Director's Cremation Service, Tulsa, request to close crematory. The motion passed unanimously.

There was no New Business

Executive Director's Report- Agency Financial update- Mr. Stiles reported gross receipts for September 2022 to be \$10,965.00 with \$1,009.00 going to the State of Oklahoma general fund. The expenses for the same timeframe totaled \$41,242.32 and net income after expenses totaled -\$31,286.32

Motion by Highberger second by Roberts to approve the schedule for Board meetings and CE for attendance for 2023. The motion passed unanimously.

Motion by Highberger second by Sanders to change the mileage requirement for FDIC of multiple locations from 60 to 90 miles. The motion passed unanimously.

Motion by Highberger second by Sanders to change the age requirement to become licensed as a funeral director and/or embalmer from 20 to 18 years old. The motion passed 4 to 2. Members Corbett, Highberger, Roberts and Sanders voted Aye. Members Matherly and Vice voted Nay.

Motion by Corbett to create a crematory operator license. Motion died for lack of a second.

Motion by Corbett to add rules to disclose subcontractors/commercial embalming services. Motion died for lack of a second.

Motion by Corbett to add rules to add prohibitions on commercial embalming establishments, prohibiting embalming establishments from providing ceremonies at their locations and prohibiting embalming services from meeting with the public either at their location or elsewhere to deliver personal items or cremated remains. Motion died for lack of a second.

Motion by Corbett to add rules to verify licensure of establishments from other states. Motion died for lack of a second.

Motion by Roberts second by Corbett to adjourn the meeting at 11:37AM. The motion passed unanimously.

Jim Roberts
Oklahoma Funeral Board President

BEFORE THE OKLAHOMA FUNERAL BOARD

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

**AMY STITTSWORTH FUNERAL SERV.
& CREMATION DIRECTORS, INC.**

Establishment License Number 1709ES,

Location: 2420 North Washington
Enid, OK 73701

Mailing Address: 2420 N. Washington
Enid, OK 73701

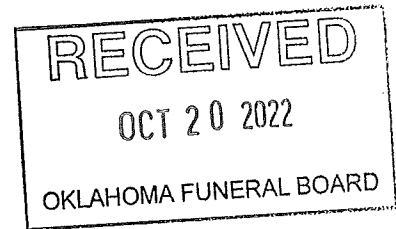
**Owned by: Amy Stittsworth Funeral Serv.
& Cremation Directors, Inc.,**
Amy Stittsworth, Service Agent
1314 W. Elm
Enid, OK 73703

WILLIAM STITTSWORTH, JR.
Licenses: 2357FD and 2500EM,
Address: 1314 W. Elm
Enid, OK 73703

**A Licensed Funeral Director and Embalmer,
And Funeral Director in Charge of
AMY STITTSWORTH FUNERAL SERV.
& CREMATION DIRECTORS, INC.**

Respondents.

Complaint No. 19-36



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, ex rel., Oklahoma Funeral Board ("Board"), by and through its attorney of record, Kylie Cooper, Assistant Attorney General, and alleges that the Respondents, operating under licenses issued by the Board, have violated provisions of the State Funeral Services Licensing Act ("Act") 59 O.S. Section 395.1, *et seq.*, (the "Act") and of the Board, OAC 235:10-1-1, *et seq.*, (the "Rules"), in the manner set forth below:

A. Factual Allegations

1. Respondent AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC. (“FUNERAL HOME”) is a licensed funeral establishment in the State of Oklahoma, located at 2420 N. Washington, Enid, Oklahoma 73701, with establishment license number 1709ES, and is owned by AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC., Amy Stittsworth, Service Agent, 1314 W. Elm, Enid, Oklahoma 73703, and as such, AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC., is liable and responsible for any penalty imposed in these proceedings.

2. Respondent WILLIAM STITTSWORTH, JR. (“STITTSWORTH”) is a funeral director and embalmer with license numbers 2357FD and 2500EM, and was the Funeral Director in Charge at the funeral home at all relevant times. As the Funeral Director in Charge, WILLIAM STITTSWORTH, JR. was responsible for the establishment’s legal and ethical operations pursuant to 59 O.S. §396.2(12).

3. The Board exercises jurisdiction over Respondents pursuant to 59 O.S. Section 396.2a(9) and (11).

4. On March 20, 2019, the Board received a complaint from the Investigator for the Oklahoma Funeral Board alleging the Respondents had wrongfully charged consumers an additional fee for clerical and administrative services for submitting documentation for reimbursement of certain Statements of Goods and Services to the Oklahoma Crime Victims Compensation Board, and that such additional charge was not included on the Respondent’s Statements of Goods and Services.

5. On March 20, 2019, the Board issued a letter of notification requesting that the Respondents submit a response to the Complaint. On April 5, 2019, the Respondents submitted as response, through their attorney, W. A. Drew Edmondson of Riggs Abney, which in relevant part contends:

“1. The \$300 Victims Compensation assignment fee was not for completing paperwork. It was a fee charged when the general policy of ‘All payments are due at the time of arrangements’ is waived for the purpose of allowing a family to pursue victims compensation funeral payment. In those rare cases, payment is at best delayed for up to a year and in a worst-case situation, may not be paid at all if the claim is denied by the Victims Compensation Board. This fee is atypical and is fully explained at the time arrangements are made. It is not on the general price list because it is so rarely an issue, but if the Board believes it should be listed on all form and is required by Board or FTC rule, please so advise.”

6. This matter was presented to the Board on July 9, 2020 for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.

7. The State has clear and convincing evidence of the facts alleged herein and that the violations alleged above occurred.

ALLEGED CONCLUSIONS OF LAW

1. The Funeral Services Licensing Act, 59 O.S. §396.12c(5) and (8) provide that a license issued by the Board may be suspended or revoked for any of the following:

- (5) Violation of any of the provisions of the Funeral Services Licensing Act ;
 - (8) Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act...;
2. Pursuant to 59 O.S. § 396.12C(14), the Board can refuse to issue or renew, or may revoke or suspend any license for “failing to comply with the Funeral Rules of the Federal Trade Commission, 15 U.S.C., Section 57a(a);

3. Oklahoma Administrative Procedures Act (“OAC”) 235:10-7-2(26)(b)(i) requires, “A licensee shall be honest and trustworthy in the performance of all duties and work performed as a licensee and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission.”

4. As the Funeral Director in Charge, Respondent WILLIAM STITTSWORTH, JR. is responsible for the legal and ethical operations of the funeral service establishment and is accountable to the Board under 59 O.S. §396.2(12).

59 O.S. Section 396.12(C). “Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge.”

59 O.S. Section 396.2(12). The “ ‘Funeral director in charge’ means an individual licensed as both a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board”.

5. Respondents violated OAC 235: 10-7-2(4)(B) and (C), which requires a licensee to provide an itemized, accurate statement of goods and services provided. Further, “if prices are not known or reasonably ascertainable, a good faith estimate shall be given and a statement of the actual charges shall be provided before the final bill is paid; and the total cost of the goods and services.” The statement of goods and services at issue included a \$500 “victim compensation assessment,” which was listed after the total. The immediate next line reflects the added fee, showing the increased total. According to the statement provided by Respondents, they then billed the State Victim’s Compensation Fund the increased amount. It appears this fee was added simply because the decedent was the victim of a crime and Respondents were seeking reimbursement.

6. For the violations alleged above of Board rules and the provisions of the Funeral Services Licensing Act, Respondents are subject to disciplinary action by the Board pursuant to 59 O.S. Sections 396.2a(9), 396.12d and 396.12e, and 59 O.S. Sections 396.12c(5)(violation of the FSLA) and (8)(violation of Board rules).

AUTHORIZED PENALTIES

The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

1. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

2. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender their licenses and/or certificates of

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:



Kylie Cooper

Kylie Cooper, OBA # 32758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as indicated below as follows:

SERVED BY CERTIFIED MAIL

AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC.
2420 N. Washington
Enid, OK 73701

AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC.
Attn: Amy Stittsworth, Service Agent
1314 W. Elm
Enid, OK 73703

WILLIAM STITTSWORTH, JR.
1314 W. Elm
Enid, OK 73703

W.A. Drew Edmondson, Esq.
Riggs Abney
528 NW 12th Street
Oklahoma City, OK 73103-2407



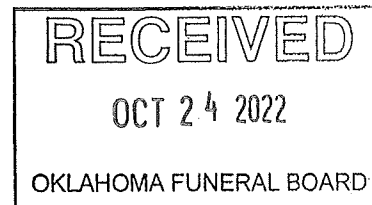
Tyler Stiles
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF THE COMPLAINT AGAINST:

SCHAUDT'S GLENPOOL FUNERAL)
SERV. & CREMATION CARE)
A Licensed Funeral Establishment,)
Establishment License # 1557ES)
719 E. 141st Street)
Glenpool, OK 74033)
)
CREMATION CARE CENTERS)
License: 44CM)
719 E. 141st Street)
Glenpool, OK 74033)
)
owned by:)
SCHAUDT'S GLENPOOL)
FUNERAL SERVICE, INC.)
719 E. 141st Street)
Glenpool, OK 74033)
)
STEPHEN SCHAUDT)
Licenses: 3071FD and 3451EM,)
DANIEL SCHAUDT)
Licenses: 2849FD and 3230EM,)
Address: 719 E. 141st Street)
Glenpool, OK 74033)
)
A Licensed Funeral Director and Embalmer)
and the Funeral Director in Charge at)
)
SCHAUDT'S FUNERAL HOME,)

Complaint No. 20-14



Respondents.

COMPLAINT AND NOTICE OF HEARING

The State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Kylie Cooper, files this Complaint and Notice of Hearing, alleging that

the Respondents, STEPHEN SCHAUDT AND DANIEL SCHAUDT, individually and d/b/a SCHAUDT'S FUNERAL SERVICE & CREMATION CARE (collectively, "Respondents"), have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("O.A.C.") Section 235:10-1-1 *et seq.* (the "Rules"), in the manner set forth below:

JURISDICTION

1. Respondents STEPHEN SCHAUDT ("Schaudt") and DANIEL SCHAUDT ("D. Schaudt") own and operate a business, SCHAUDT'S FUNERAL SERVICE & CREMATION CARE ("Schaudt's"), located at 719 E 141 St, Glenpool, Oklahoma 74033.

2. Respondent Schaudt's also conducts business as CREMATION CARE CENTERS ("Cremation Care") under a domestic trade name filed with the Oklahoma Secretary of State. Schaudt's address for the domestic trade name filing is 719 East 141st Street, Glenpool, Oklahoma 74033.

3. The Board has jurisdiction over Respondents pursuant to 59 O.S. §§ 396.2a(9) and (11). *See also* 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

4. On September 12, 2019, another Funeral Home filed a complaint regarding Schaudt's advertising of their Cremation Care Center.

5. Schaudt's Glenpool Funeral Service and Cremation have the same address as Cremation Care Center. They are both located at 719 East 141st Street in Glenpool, Oklahoma. Schaudt's operates a website at schaudtfuneralservice.com. Cremation Care's website is greencountrycremation.com.

6. Cremation Care does not maintain an establishment license for the location at 719 East 141st Street.

7. On September 12, 2019, another Funeral Home filed a complaint with the Board, alleging that Respondents were operating a crematory without a valid establishment license in violation of 59 O.S. § 396.12(C). Further, alleging that Respondents are advertising under a different name than the one that is licensed, in violation of 59 O.S. § 396.12 (B). The Board provided Respondents with the Notice of Complaint via certified letter, which was delivered on September 16, 2019.

8. Respondents, by and through their attorney, filed their response with the Board on September 26, 2019. Respondents confirmed that they do not have a separate establishment license, that they operate Schaudt's and Cremation Care, and confirmed that greencountrycremation.com was the website for Cremation Care. Respondents state that they were granted a crematory license, 44CM, by the board. Respondents state that because they have never held Cremation Care out to be a "funeral establishment," they are not in violation of any rules.

9. By public vote during the meeting on September 8, 2022, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

10. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

11. Respondents violated 59 O.S. § 396.12(A), (B), and (C), by "holding forth by word or act that the person is engaged in the profession of undertaking or funeral directing shall be deemed as a funeral establishment and shall be licensed as such pursuant to the provisions of the Funeral Services Licensing Act." Further, "a funeral establishment... shall advertise itself by the name that the establishment is licensed as." Respondents are operating a website,

greencountrycremation.com, for their Cremation Care Center, while alleging that it is a trade name owned by Schaudt's. Cremation Care Center simultaneously argues that they do not need to obtain anything more than a crematory license, because they operate under licenses held by Schaudt's.

12. Respondents violated O.A.C. 235:10-7-2(17), (26)(b)(i), (26)(d)(v), and (26)(d)(vi), by falsely advertising and materially misrepresenting Cremation Care Centers as an online, direct cremation business, open to the public. Under Title 59, Sections 396.12c(A)(4) and (17), engaging in "[f]alse or misleading advertising as a funeral director" and "[v]iolating [59 O.S. § 396.12(B)] regarding advertisement of services at locations not licensed by the Board" subjects Respondents to discipline. Likewise, the Rules prohibit "[t]he use of false or misleading advertising." O.A.C. 235:10-7-2(17). Moreover, licensees are required to "be honest and trustworthy in the performance of all duties and work performed . . . and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission." O.A.C. 235:10-7-2(26)(b)(i). Indeed, "[a] licensee shall not provide information he or she knew or should have known was inaccurate, deceitful, or misleading to the Board or a consumer" and "shall not engage in any activity that constitutes dishonesty, misrepresentation, or fraud." O.A.C. 235:10-7-2(26)(d)(v) and (vi).

13. Due to the above violations, Respondents are subject to disciplinary action by the Board. *See* 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

14. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related

violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

15. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

16. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender their licenses and/or certificates of apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

A handwritten signature in black ink that reads "Kylie Cooper". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

Kylie Cooper, OBA # 32758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as follows:

BY CERTIFIED MAIL:

Carter A. Fox
1515 E. 71st St, Suite 200
Tulsa, OK 74136
cfox@law-lsl.com

Attorney for Respondents

A handwritten signature in black ink, appearing to read "Tyler Stiles", written over a horizontal line.

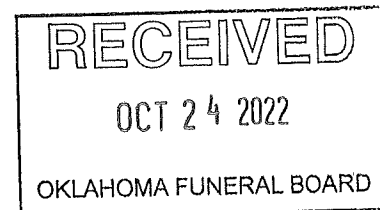
Tyler Stiles, MBA
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF THE COMPLAINT AGAINST:

SCHAUDT'S GLENPOOL FUNERAL)
SERV. & CREMATION CARE)
A Licensed Funeral Establishment,)
Establishment License # 1557ES)
719 E. 141st Street)
Glenpool, OK 74033)
)
CREMATION CARE CENTERS)
License: 44CM)
719 E. 141st Street)
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owned by:)
SCHAUDT'S GLENPOOL)
FUNERAL SERVICE, INC.)
719 E. 141st Street)
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)
STEPHEN SCHAUDT)
Licenses: 3071FD and 3451EM,)
DANIEL SCHAUDT)
Licenses: 2849FD and 3230EM,)
Address: 719 E. 141st Street)
Glenpool, OK 74033)
)
A Licensed Funeral Director and Embalmer)
and the Funeral Director in Charge at)
)
SCHAUDT'S FUNERAL HOME,)

Complaint No. 20-16



Respondents.

COMPLAINT AND NOTICE OF HEARING

The State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Kylie Cooper, files this Complaint and Notice of Hearing, alleging that

the Respondents, STEPHEN SCHAUDT AND DANIEL SCHAUDT, individually and d/b/a SCHAUDT'S FUNERAL SERVICE & CREMATION CARE (collectively, "Respondents"), have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the "Act"), and Rules of the Board, Oklahoma Administrative Code ("O.A.C.") Section 235:10-1-1 *et seq.* (the "Rules"), in the manner set forth below:

JURISDICTION

1. Respondents STEPHEN SCHAUDT ("Schaudt") and DANIEL SCHAUDT ("D. Schaudt") own and operate a business, SCHAUDT'S FUNERAL SERVICE & CREMATION CARE ("Schaudt's"), located at 719 E 141 St, Glenpool, Oklahoma 74033.

2. Respondent Schaudt's also conducts business as CREMATION CARE CENTERS ("Cremation Care") under a domestic trade name filed with the Oklahoma Secretary of State. Schaudt's address for the domestic trade name filing is 719 East 141st Street, Glenpool, Oklahoma 74033.

3. The Board has jurisdiction over Respondents pursuant to 59 O.S. §§ 396.2a(9) and (11). *See also* 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

4. On September 26, 2019, another Funeral Home filed a complaint regarding Schaudt's advertising of their Cremation Care Center.

5. Schaudt's Glenpool Funeral Service and Cremation have the same address as Cremation Care Center. They are both located at 719 East 141st Street in Glenpool, Oklahoma. Schaudt's operates a website at schaudtfuneralservice.com. Cremation Care's website is greencountrycremation.com.

6. Cremation Care does not maintain an establishment license for the location at 719 East 141st Street. Cremation Care does have crematory license, 44CM.

7. On September 26, 2019, another Funeral Home filed a complaint with the Board, alleging that Respondents are advertising under a different name than the one that is licensed, in violation of O.A.C. 235:10-7-2(17) and O.A.C. 235:10-15-3 (1) (2), and (4). The Board provided Respondents with the Notice of Complaint via certified letter, which was delivered on October 3, 2019.

8. Respondents, by and through their attorney, filed their response with the Board on October 17, 2019. Respondents confirm that they had a “generic ad for cremations in Oklahoma City.” The phrase at issue in the ad is, “Oklahoma City Cremation.” This complaint originates from another Funeral Home, which conducts business under the name Oklahoma City Cremation. Respondents deny any allegation that this ad was intending to pass their business off as Oklahoma City Cremation. Respondents state that “Oklahoma City Cremation” is generic and geographically descriptive. Respondents also received a cease-and-desist letter from Oklahoma City Cremation. In response to this letter, Respondents changed the ad.

9. By public vote during the meeting on September 8, 2022, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

10. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

11. Respondents violated O.A.C. 235:10-7-2(17), by falsely advertising and materially misrepresenting Cremation Care Centers as an online, direct cremation business, open to the public. Under Title 59, Sections 396.12c(A)(4) and (17), engaging in “[f]alse or misleading

advertising as a funeral director” and “[v]iolating [59 O.S. § 396.12(B)] regarding advertisement of services at locations not licensed by the Board” subjects Respondents to discipline. Likewise, the Rules prohibit “[t]he use of false or misleading advertising.” O.A.C. 235:10-7-2(17). Moreover, licensees are required to “be honest and trustworthy in the performance of all duties and work performed . . . and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission.” O.A.C. 235:10-7-2(26)(b)(i). Indeed, “[a] licensee shall not provide information he or she knew or should have known was inaccurate, deceitful, or misleading to the Board or a consumer” and “shall not engage in any activity that constitutes dishonesty, misrepresentation, or fraud.” O.A.C. 235:10-7-2(26)(d)(v) and (vi).

12. Further, Respondents violated O.A.C. 235:10-15-3 (4) by using “any name other than the name the establishment or individual is licensed as;” in advertising material.

13. Due to the above violations, Respondents are subject to disciplinary action by the Board. *See* 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

14. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability,

15. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

16. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender their licenses and/or certificates of apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

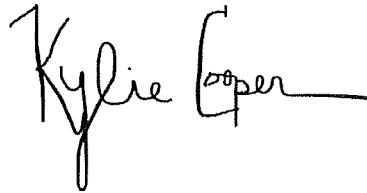
1-408-418-9388
Access Code:
1260612143

the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

A handwritten signature in black ink that reads "Kylie Cooper". The signature is fluid and cursive, with the first name "Kylie" and the last name "Cooper" clearly legible.

Kylie Cooper, OBA # 32758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as follows:

BY CERTIFIED MAIL:

Carter A. Fox
1515 E. 71st St, Suite 200
Tulsa, OK 74136
cfox@law-lsl.com

Attorney for Respondents

A handwritten signature in black ink, appearing to read "Tyler Stiles", is written over a horizontal line.

Tyler Stiles, MBA
Executive Director

BEFORE THE OKLAHOMA FUNERAL BOARD

IN THE MATTER OF THE COMPLAINT)
AGAINST:)

AMY STITTSWORTH FUNERAL SERV.)
& CREMATION DIRECTORS, INC.)

Establishment License Number 1709ES,)
Location: 2420 North Washington)
Enid, OK 73701)

Complaint No. 20-39

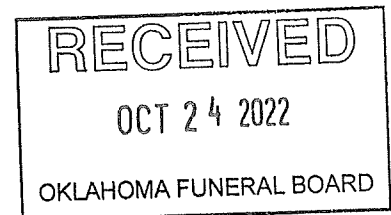
Mailing Address: 2420 N. Washington)
Enid, OK 73701)

Owned by: Amy Stittsworth Funeral Serv.)
& Cremation Directors, Inc.,)
Amy Stittsworth, Service Agent)
1314 W. Elm)
Enid, OK 73703)

WILLIAM STITTSWORTH, JR.)
Licenses: 2357FD and 2500EM,)
Address: 1314 W. Elm)
Enid, OK 73703 ,)

A Licensed Funeral Director and Embalmer,)
And Funeral Director in Charge of)
AMY STITTSWORTH FUNERAL SERV.)
& CREMATION DIRECTORS, INC.)

Respondents.)



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, ex rel., Oklahoma Funeral Board ("Board"), by and through its attorney of record, Kylie Cooper, Assistant Attorney General, and alleges that the Respondents, operating under licenses issued by the Board, have violated provisions of the State Funeral Services Licensing Act ("Act") 59 O.S. Section 395.1, *et seq.*, (the "Act") and of the Board, OAC 235:10-1-1, *et seq.*, (the "Rules"), in the manner set forth below:

A. Factual Allegations

1. Respondent AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC. (“FUNERAL HOME”) is a licensed funeral establishment in the State of Oklahoma, located at 2420 N. Washington, Enid, Oklahoma 73701, with establishment license number 1709ES, and is owned by AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC., Amy Stittsworth, Service Agent, 1314 W. Elm, Enid, Oklahoma 73703, and as such, AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC., is liable and responsible for any penalty imposed in these proceedings.

2. Respondent WILLIAM STITTSWORTH, JR. (“STITTSWORTH”) is a funeral director and embalmer with license numbers 2357FD and 2500EM, and was the Funeral Director in Charge at the funeral home at all relevant times. As the Funeral Director in Charge, WILLIAM STITTSWORTH, JR. was responsible for the establishment’s legal and ethical operations pursuant to 59 O.S. §396.2(12).

3. The Board exercises jurisdiction over Respondents pursuant to 59 O.S. Section 396.2a(9) and (11).

4. On February 25, 2020, the Board received a complaint from Chad Estes of Estes-Phillips Funeral Home in Ada, Oklahoma.

5. Board staff issued a letter of notification on February 28, 2020, requesting that the Respondents submit a response to the complaint, which notice the Respondents received on March 2, 2020. On March 6, 2020, Respondents submitted a response.

7. Respondents argue that no violation has occurred. The advertisement at issue, is for “DFS Memorials,” which is a “network of local, family owned and operated

funeral homes and cremation providers who offer lower cost death care alternatives,” according to their ad. In their response, Respondents state that DFS Memorials is “a marketing and lead generation membership scheme,” and “we specifically name the local member funeral home online and the calls go directly to the funeral home.”

8. DFS Memorials advertisements claim that STITTSWORTH FUNERAL HOME has locations in Ada, Broken Arrow, Lawton, and Norman, among others. Finally, Respondents claim they are merely marketing materials, and DFS directly connects them to the consumer.

9. This matter was presented to the Board on April 9, 2020 for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.

10. The State has clear and convincing evidence of the facts alleged herein and that the violations alleged above occurred.

ALLEGED CONCLUSIONS OF LAW

1. The Funeral Services Licensing Act, 59 O.S. §396.12c(5) and (8) provide that a license issued by the Board may be suspended or revoked for any of the following:

- (5) Violation of any of the provisions of the Funeral Services Licensing Act ;
- (8) Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act...;

2. Oklahoma Administrative Procedures Act (“OAC”) 235:10-7-2(17) prohibits the following types of advertising:

- (17) **False or misleading advertising.** The use of false or misleading advertising or advertising a name other than the name the individual or establishment is licensed as.

3. OAC 235:10-15-3(4) prohibits an advertisement from containing “any name other than the name the establishment or individual is licensed as”.

4. Under OAC 235:10-3-2(2), “[o]nly one establishment license shall be issued to a specific address.” The “STITTSWORTH FUNERAL HOME” at the Ada, Oklahoma, location had not been issued a funeral service establishment license at the times in question. The Respondent AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC. is licensed at the Enid location, not at the Ada location.

5. Further, the statute mandating the name by which a funeral home may advertise, 59 O.S. § 396.12(B), requires that the funeral home “shall advertise itself by the name that the establishment is licensed as pursuant to the Funeral Services Licensing Act.” Thus, the advertising by Respondents of “STITTSWORTH FUNERAL HOME” in Ada, Oklahoma, constitutes the advertising of establishment names other than names that had been licensed by the Board and is a violation of 59 O.S. § 396.12(B) for which discipline may be imposed under 59 O.S. § 396.12c(5).

5. Respondents’ advertising of an establishment name for a location in Ada, for which location no license has been issued, constitutes a violation of 59 O.S. Section 396.12c(5) by violating 59 O.S. Section 396.12(B) and of 59 O.S. Section 396.12c(8) by violating rules of the Board, including but not limited to OAC 235:10-3-2(2) and (4), 235:10-7-2(17) and OAC 235:10-15-3(4).

6. As the Funeral Director in Charge, Respondent WILLIAM STITTSWORTH, JR. is responsible for the legal and ethical operations of the funeral service establishment and is accountable to the Board under 59 O.S. §396.2(12).

59 O.S. Section 396.12(C). “Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge.”

59 O.S. Section 396.2(12). The “ ‘Funeral director in charge’ means an individual licensed as both a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board”.

7. For the violations alleged above of Board rules and the provisions of the Funeral Services Licensing Act, Respondents are subject to disciplinary action by the Board pursuant to 59 O.S. Sections 396.2a(9), 396.12d and 396.12e, and 59 O.S. Sections 396.12c(5)(violation of the FSLA) and (8)(violation of Board rules).

AUTHORIZED PENALTIES

1. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

2. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and

1 When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

3. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender their licenses and/or certificates of apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

A handwritten signature in black ink that reads "Kylie Cooper". The signature is fluid and cursive, with a long horizontal stroke at the end of the name.

Kylie Cooper, OBA # 32758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE


I hereby certify that on the 24th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as indicated below as follows:

SERVED BY CERTIFIED MAIL

AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC.
2420 N. Washington
Enid, OK 73701

AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC.
Attn: Amy Stittsworth, Service Agent
1314 W. Elm
Enid, OK 73703

WILLIAM STITTSWORTH, JR.
1314 W. Elm
Enid, OK 73703



Tyler Stiles
Executive Director

BEFORE THE OKLAHOMA FUNERAL BOARD

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

**AMY STITTSWORTH FUNERAL SERV.
& CREMATION DIRECTORS, INC.**

Establishment License Number 1709ES,

Location: 2420 North Washington
Enid, OK 73701

Mailing Address: 2420 N. Washington
Enid, OK 73701

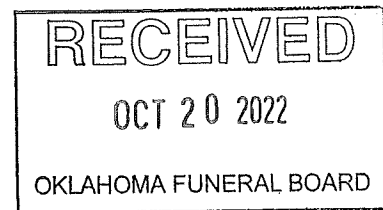
**Owned by: Amy Stittsworth Funeral Serv.
& Cremation Directors, Inc.,**
Amy Stittsworth, Service Agent
1314 W. Elm
Enid, OK 73703

WILLIAM STITTSWORTH, JR.
Licenses: 2357FD and 2500EM,
Address: 1314 W. Elm
Enid, OK 73703

**A Licensed Funeral Director and Embalmer,
And Funeral Director in Charge of
AMY STITTSWORTH FUNERAL SERV.
& CREMATION DIRECTORS, INC.**

Respondents.

Complaint No. 21-55



COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, ex rel., Oklahoma Funeral Board ("Board"), by and through its attorney of record, Kylie Cooper, Assistant Attorney General, and alleges that the Respondents, operating under licenses issued by the Board, have violated provisions of the State Funeral Services Licensing Act ("Act") 59 O.S. Section 395.1, *et seq.*, (the "Act") and of the Board, OAC 235:10-1-1, *et seq.*, (the "Rules"), in the manner set forth below:

A. Factual Allegations

1. Respondent AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC. (“FUNERAL HOME”) is a licensed funeral establishment in the State of Oklahoma, located at 2420 N. Washington, Enid, Oklahoma 73701, with establishment license number 1709ES, and is owned by AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC., Amy Stittsworth, Service Agent, 1314 W. Elm, Enid, Oklahoma 73703, and as such, AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC., is liable and responsible for any penalty imposed in these proceedings.

2. Respondent WILLIAM STITTSWORTH, JR. (“STITTSWORTH”) is a funeral director and embalmer with license numbers 2357FD and 2500EM, and was the Funeral Director in Charge at the funeral home at all relevant times. As the Funeral Director in Charge, WILLIAM STITTSWORTH, JR. was responsible for the establishment’s legal and ethical operations pursuant to 59 O.S. §396.2(12).

3. The Board exercises jurisdiction over Respondents pursuant to 59 O.S. Section 396.2a(9) and (11).

4. On June 25, 2021, the Board received a complaint from Preston Childress of Trout Funeral Home in Ponca City, Oklahoma.

5. Board staff issued a letter of notification on June 29, 2021, requesting that the Respondents submit a response to the complaint. On July 12, 2021 Respondents submitted a response.

6. Respondents deny advertising a location in Ponca City. They state that when they submitted the obituary in question, it contained their Enid location and did not say

Ponca City. The obituary was posted on a website owned by Consolidated Funeral Services.

7. Respondents also argue that they have third party witnesses who can confirm that the original obituary submitted by them did not include Ponca City and in fact said Enid.

8. This matter was presented to the Board on August 11, 2022 for a probable cause determination, and the Board found probable cause to file a formal complaint against the Respondents.

9. The State has clear and convincing evidence of the facts alleged herein and that the violations alleged above occurred.

ALLEGED CONCLUSIONS OF LAW

1. The Funeral Services Licensing Act, 59 O.S. §396.12c(5) and (8) provide that a license issued by the Board may be suspended or revoked for any of the following:

- (5) Violation of any of the provisions of the Funeral Services Licensing Act ;
- (8) Violation of any rules of the Board in administering the purposes of the Funeral Services Licensing Act...;

2. Oklahoma Administrative Procedures Act (“OAC”) 235:10-7-2(17) prohibits the following types of advertising:

- (17) **False or misleading advertising.** The use of false or misleading advertising or advertising a name other than the name the individual or establishment is licensed as.

3. OAC 235:10-15-3(4) prohibits an advertisement from containing “any name other than the name the establishment or individual is licensed as”.

4. Under OAC 235:10-3-2(2), “[o]nly one establishment license shall be issued to a specific address.” The “STITTSWORTH FUNERAL HOME” at the Ponca

City, Oklahoma, location had not been issued a funeral service establishment license at the times in question. The Respondent AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC. is licensed at the Enid location, not at the Ponca City location.

5. Further, the statute mandating the name by which a funeral home may advertise, 59 O.S. § 396.12(B), requires that the funeral home “shall advertise itself by the name that the establishment is licensed as pursuant to the Funeral Services Licensing Act.” Thus, the advertising by Respondents of “STITTSWORTH FUNERAL HOME” in Ponca City, Oklahoma, constitutes the advertising of establishment names other than names that had been licensed by the Board and is a violation of 59 O.S. § 396.12(B) for which discipline may be imposed under 59 O.S. § 396.12c(5).

6. Respondents’ advertising of an establishment name for a location in Ponca, for which location no license has been issued, constitutes a violation of 59 O.S. Section 396.12c(5) by violating 59 O.S. Section 396.12(B) and of 59 O.S. Section 396.12c(8) by violating rules of the Board, including but not limited to OAC 235:10-3-2(2) and (4), 235:10-7-2(17) and OAC 235:10-15-3(4).

7. As the Funeral Director in Charge, Respondent WILLIAM STITTSWORTH, JR. is responsible for the legal and ethical operations of the funeral service establishment and is accountable to the Board under 59 O.S. §396.2(12).

59 O.S. Section 396.12(C). “Every funeral establishment, commercial embalming establishment, and crematory shall be operated by a funeral director in charge.”

59 O.S. Section 396.2(12). The “ ‘Funeral director in charge’ means an individual licensed as both a funeral director and embalmer designated by a funeral service establishment, commercial embalming establishment, or

crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board”.

8. For the violations alleged above of Board rules and the provisions of the Funeral Services Licensing Act, Respondents are subject to disciplinary action by the Board pursuant to 59 O.S. Sections 396.2a(9), 396.12d and 396.12e, and 59 O.S. Sections 396.12c(5)(violation of the FSLA) and (8)(violation of Board rules).

AUTHORIZED PENALTIES

1. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

2. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

3. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

their licenses and/or certificates of apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

A handwritten signature in black ink that reads "Kylie Cooper". The signature is written in a cursive, flowing style.

Kylie Cooper, OBA # 32758

Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as indicated below as follows:

SERVED BY CERTIFIED MAIL

AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC.
2420 N. Washington
Enid, OK 73701

AMY STITTSWORTH FUNERAL SERV. & CREMATION DIRECTORS, INC.
Attn: Amy Stittsworth, Service Agent
1314 W. Elm
Enid, OK 73703

WILLIAM STITTSWORTH, JR.
1314 W. Elm
Enid, OK 73703

CRAIG RIFFEL
3517 W Owen K. Garriott, Suite 1
Enid, OK 73703\



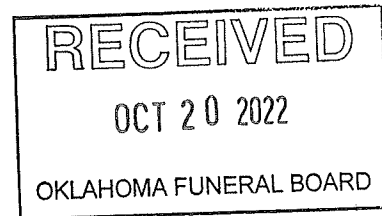
Tyler Stiles
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF THE COMPLAINT AGAINST:

**ALTERNATIVES CREMATION &
FUNERAL SERVICE**)
A Licensed Funeral Establishment,)
Establishment License # 1947ES)
1206 N. Market Street)
Cordell, OK 73632)
)
owned by:)
VARNER PROFESSIONAL)
SERVICES, LLC.)
1206 N Market Street)
Cordell, OK 73632)
)
RICHARD W. VARNER)
Licenses: 3070FD and 3450EM,)
Address: 1206 N. Market Street)
Cordell, OK 73632)
)
A Licensed Funeral Director and Embalmer)
and the Funeral Director in Charge at)
)
**ALTERNATIVES CREMATION &
FUNERAL SERVICE**)

Complaint No. 22-25



Respondents.

COMPLAINT AND NOTICE OF HEARING

The State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Kylie Cooper, files this Complaint and Notice of Hearing, alleging that the Respondents, RICHARD W. VARNER, ALTERNATIVES CREMATION & FUNERAL SERVICE, and VARNER PROFESSIONAL SERVICES, LLC (collectively, "Respondents"), have violated provisions of the State Funeral Services Licensing Act, 59 O.S. § 395.1 *et seq.* (the

“Act”), and Rules of the Board, Oklahoma Administrative Code (“O.A.C.”) Section 235:10-1-1 *et seq.* (the “Rules”), in the manner set forth below:

JURISDICTION

1. Respondent ALTERNATIVES CREMATION & FUNERAL SERVICE (“Funeral Home”) is licensed by the Board, establishment license number 1947ES, and is located at 1206 N. Market Street, Cordell, OK 73632.

2. Respondent RICHARD W. VARNER (“Funeral Director in Charge” or “FDIC”) is licensed by the Board as a funeral director and embalmer, license numbers 3070FD and 3450EM, and at all relevant times was the Funeral Director in Charge at Funeral Home.

3. Respondent VARNER PROFESSIONAL SERVICES, LLC (“Owner”) is, and at all relevant times was, the owner of record for Funeral Home. Upon information and belief, Respondent RICHARD W. VARNER is the owner and registered agent for Respondent VARNER PROFESSIONAL SERVICES, LLC.

4. The Board has jurisdiction over Respondents pursuant to 59 O.S. §§ 396.2a(9) and (11). *See also* 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

5. On January 12, 2022, the Board received a complaint from Carol Rea. Ms. Rea’s father died on Saturday August 28, 2021 at Integris Hospice House in Oklahoma City. Mr. Varner was recommended by a Social Worker there, who told Ms. Rea she would hear from the funeral home either that day or the next. On Monday, August 30, Ms. Rea called the Funeral Home herself and set up a meeting “to go to his Oklahoma City office to make arrangements and payment.”

6. They met the next day, Tuesday August 31, at 1715 North Broadway Avenue, Oklahoma City, OK 73103. Ms. Rea stated that “there was a terrible, overwhelming stench and everything

felt dirty, including the chairs in his office. That day in Mr. Varner's office, Ms. Rea purchased an urn, a brass nameplate, and a necklace. The urn was to be sealed and suitable for burial, with the nameplate attached. The necklace, made by Crescent Memorial, was to have her father's fingerprint on it. On September 15, when her father's remains were ready to pick up, Ms. Rea told Mr. Varner that she changed her mind and asked how much it would cost for him to mail her father's remains to the funeral home in Michigan where the service was taking place. Ms. Rea paid the \$125 fee over the phone that day and Mr. Varner said he would get them mailed. When Ms. Rea asked about the status of her necklace, Mr. Varner indicated "some things were taking longer than normal, and he would call when it arrived."

7. On or around September 23, Mr. Varner called Ms. Rea and explained that he lost the information for the funeral home in Michigan. Ms. Rea gave him the information again, and again inquired about her necklace. Mr. Varner state that he was going to contact the company, because other customers were in a similar situation.

8. On or around October 7, Mr. Varner called and asked if she wanted to pick up the cremated remains. Ms. Rea reminded him that he was supposed to have mailed them already and they had spoken about it a few weeks prior. Mr. Varner asked for payment information and charged Ms. Rea another \$125 to mail her father's remains. When she asked about the necklace with her father's fingerprint, Mr. Varner said it was on its way.

9. When the Michigan funeral home received the decedents remains, they were mailed in a temporary urn instead of standard box. The urn and nameplate that had been purchased were not sent. The remains were mailed in a standard box. Ms. Rea purchased a second urn in Michigan, so they could finally have her father's service.

10. While at the funeral home in Michigan, Ms. Rea asked that they call Crescent Memorial to see if there were any updates on the necklace with her father's fingerprint. The company let her know that they did not have Alternative Cremations in their system and that no order was ever placed for her necklace. Upon hearing this information, Ms. Rea called Mr. Varner. Mr. Varner claimed he didn't know why she was told that, because he placed her order the day she came to the office.

11. After returning to Oklahoma, Ms. Rea contacted Mr. Varner requesting a refund for the items she purchased and did not receive. This included the urn, brass nameplate, fingerprint necklace, and the duplicate charge for shipping. Mr. Varner sent Ms. Rea a check for the full amount she requested as refund (\$508.00).

12. Ms. Rea did receive a statement of funeral goods and services selected signed by Mr. Varner. Next to his signature, is supposed to be Mr. Varner's license number. The license number on Ms. Rea's documents is "1234." It says Alternatives Cremation and Funeral Service is located at 1206 N. Market Street, Cordell, OK 73632.

13. At the time of the complaint, online searches revealed that Alternatives Cremation and Funeral Service is located at 1715 North Broadway Ave, Oklahoma City, OK 73103.

14. Alternatives Cremation and Funeral Service maintains a website, located at <https://www.funeralok.com/>. The two phone numbers at the top of the webpage, (580) 832-0103 and (405) 433-8085 are the same phone numbers that appear on the statement of goods and services Ms. Rea received, signed by Mr. Varner.

15. Alternatives does not maintain an establishment license for the location at 447 SW 89th St.

16. The Board provided Respondents with the Notice of Complaint via certified letter, which was delivered on or about January 22, 2022.

17. Respondents, by and through their attorney, filed their response with the Board on February 28, 2022. Respondents claim that it is untrue that Ms. Rae met with Mr. Varner at his Oklahoma City office. Respondent says she called his office in Cordell, and he said he could meet her in Oklahoma City. Respondent argues that he could have met at her home or anywhere to prepare the Statement of Goods and Services, they just happened to meet at his ex-wife's real estate office. He states his ex-wife's office does not smell and if it had, why would Ms. Rae stick around? Further, Respondent argues that Ms. Rae just didn't want Mr. Varner to perform under contract, he provided her with a refund, and such the contract between them was complete upon the cremation of Ms. Rea's father.

18. By public vote during the meeting on September 8, 2022, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

19. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

20. Respondents violated 59 O.S. § 396.12(A), (B), which requires "a funeral establishment shall not do business in a location that is not licensed as a funeral establishment, shall not advertise a service that is available from an unlicensed location.." Respondents are operating a website, funeralok.com, for a business located at 1715 North Broadway Avenue in Oklahoma City, under the name Alternatives Cremation and Funeral Service. Various online searches advertise services at the unlicensed Oklahoma City location.

21. Respondents violated O.A.C. 235:10-7-2(17), by falsely advertising and materially misrepresenting Alternatives Cremation and Funeral Service as a licensed funeral home, open to the public. Under Title 59, Sections 396.12c(A)(4) and (17), engaging in "[f]alse or misleading

advertising as a funeral director” and “[v]iolating [59 O.S. § 396.12(B)] regarding advertisement of services at locations not licensed by the Board” subjects Respondents to discipline. Likewise, the Rules prohibit “[t]he use of false or misleading advertising.” O.A.C. 235:10-7-2(17). Moreover, licensees are required to “be honest and trustworthy in the performance of all duties and work performed . . . and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission.” O.A.C. 235:10-7-2(26)(b)(i). Indeed, “[a] licensee shall not provide information he or she knew or should have known was inaccurate, deceitful, or misleading to the Board or a consumer” and “shall not engage in any activity that constitutes dishonesty, misrepresentation, or fraud.” O.A.C. 235:10-7-2(26)(d)(v) and (vi).

22. Respondents violated O.A.C. 235:10-7-2(26)(v) “a licensee shall not provide information he or she knew or should have known was inaccurate, deceitful, or misleading to the Board or a consumer while performing as a licensee.” Mr. Varner knew or should have known whether he actually placed the order for a necklace that was purchased by a customer. When asked for any updates, Mr. Varner continuously indicated that it was delayed but would arrive, even after Crescent Memorial confirmed it had not been ordered. Further, Mr. Varner knew or should have known that his license number is not “1234.”

23. Due to the above violations, Respondents are subject to disciplinary action by the Board. *See* 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

24. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related

violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

25. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

26. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender their licenses and/or certificates of apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:



Kylie Cooper, OBA # 32758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

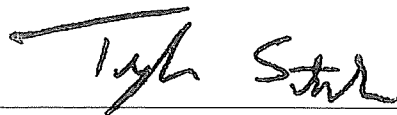
CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as follows:

BY CERTIFIED MAIL:

Larry A. Morgan
11912 N. Pennsylvania Ave, Suite D-1
Oklahoma City, OK 73120

Attorney for Respondents

Handwritten signature of Tyler Stiles in black ink, featuring a stylized 'T' and 'S'.

Tyler Stiles, MBA
Executive Director

BEFORE THE OKLAHOMA FUNERAL BOARD

**IN THE MATTER OF THE COMPLAINT
AGAINST:**

**OKLAHOMA MORTUARY TRADE SERVICE,
Establishment License Number 2023CE,**

**Owned by: OKLAHOMA MORTUARY
TRADE SERVICES, LLC,**

Complaint 22-38

Mailing address: 2424 N. Oklahoma Avenue
Oklahoma City, OK, 73105

Location address: 2121 N. Oklahoma Avenue
Oklahoma City, OK 73105, and

MACKENZIE L. PARKS, ,

License: 6444AP

Address: 1229 SE 24th Street
Oklahoma City, OK 73129

JOHN H. ASTLE

Licenses: 2751FD and 3133EM

Address: 187 North Willow Terrace,
Mustang, OK 73129,

**A Licensed Funeral Director and Embalmer
and Funeral Director in Charge of
OKLAHOMA MORTUARY TRADE SERVICE,**

Respondents.

RECEIVED

OCT 20 2022

OKLAHOMA FUNERAL BOARD

COMPLAINT AND NOTICE OF HEARING

COMES NOW the State of Oklahoma, ex rel., Oklahoma Funeral Board ("Board"), by and through its attorney of record, Kylie Cooper, Assistant Attorney General, and alleges that the Respondent, operating under a license issued by the Board, has violated provisions of the State Funeral Services Licensing Act ("Act") 59 O.S. Section 395.1, *et seq.*, (the "Act") and of the Board, OAC 235:10-1-1, *et seq.*, (the "Rules"), in the manner set forth below:

JURISDICTION

1. Respondent OKLAHOMA MORTUARY TRADE SERVICE (“ESTABLISHMENT”) is a licensed commercial embalming establishment in the State of Oklahoma, located at 2424 N Oklahoma Ave, Oklahoma City, OK 73105, with establishment license number 2023CE, and is owned by OKLAHOMA MORTUARY TRADE SERVICES, LLC., located at 2424 N. Oklahoma Avenue, Oklahoma City, OK 73105.

2. JOHN H. ASTLE is a licensed funeral director and embalmer with license numbers 2751FD and 3133EM, and was the Funeral Director in Charge at OKLAHOMA MORTUARY TRADE SERVICE at all relevant times.

3. MACKENZIE L. PARKS is a licensed apprentice with license number 6444AP, and at all times relevant was acting as the agent, servant or employee of the Respondent establishment.

4. The Board exercises jurisdiction over Respondent pursuant to 59 O.S. Section 396.2a(9) and (11). *See also* 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

5. Mackenzie Parks’ was granted an apprenticeship license by the Board on December 9, 2021.

6. During the course of a compliance audit, Board staff noticed discrepancies between the quarterly reports submitted by Ms. Parks and the Body Intake Log, and the date that Ms. Parks was granted apprenticeship. Specifically, Ms. Parks signed off on eight embalming entries as a participating Apprentice, and these eight embalmings occurred

before she was a certified apprentice on December 9, 2021. There were two embalmings on November 29, two on December 1, and four embalmings on December 2, 2021.

7. On March 23, 2022, Board staff filed a complaint with the Board, alleging that Respondents were in violation of 59 O.S. §396.3a, regarding the unlicensed embalming by an Apprentice. The Board provided Respondents with the Notice of Complaint via certified letter the same day.

8. On April 5, 2022, Respondents filed their response to Complaint 22-38 with the Board. Respondents acknowledge that the Ms. Parks signed the Log prior to her apprenticeship and that this is a violation, however they state that she was supervised at all times. Ms. Parks also stated that “the embalmers I was working with at the time were not aware I was still in the process of obtaining my apprenticeship certificate.” Respondents state that this occurred during the height of the Covid pandemic and they were receiving a high volume of calls.

9. By public vote during the meeting on September 8, 2022, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

10. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

11. Respondents violated 59 O.S. §396.3a, by maintaining a commercial embalming establishment, where an unlicensed apprentice participated in eight separate embalmings over three days.

12. Further, Respondents violated OAC 235:10-7-2(7), which forbids the embalming of any dead human remains by an individual that is not licensed as an embalmer.

13. FDIC is “responsible for the legal and ethical operation of the [establishment] and is accountable to the Board.” 59 O.S. § 396.2(12). Therefore, Respondent JOHN H. ASTLE, as the Funeral Director in Charge of the Funeral Home is also liable for the above violations.

14. Due to the above violations, Respondents are subject to disciplinary action by the Board. *See* 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

15. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

16. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

17. In lieu of prosecution, Respondents “may elect to surrender the license.” *Id.* at § 396.12e(D). However, should Respondents surrender their licenses, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **NOVEMBER 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

In-Person

Office of Chief Medical Examiner
1st Floor Conference Room
921 N.E. 23rd Street
Oklahoma City, OK 73105

Videoconference

<https://oklahomafuneralboard.my.webex.com/meet/Funeralboard>

The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:

A handwritten signature in black ink that reads "Kylie Cooper". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Kylie Cooper, OBA # 23758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov

Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served either mailing by Certified Mail or by handing to a process server for service in person, as follows:

BY CERTIFIED MAIL:

JOHN H. ASTLE
187 North Willow Terrace
Mustang, OK 73064

Mackenzie L. Parks
1229 SE 24th Street
Oklahoma City, OK 73129

Oklahoma Mortuary Trade Services, LLC.
2424 N Oklahoma Avenue
Oklahoma City, OK 73105



Tyler Stiles, MBA
Executive Director

**BEFORE THE OKLAHOMA FUNERAL BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF THE COMPLAINT AGAINST:

**OKLAHOMA CREMATION
CENTERS**

License: 81CM
719 E. 141st Street
Glenpool, OK 74033

**owned by:
SCHAUDT'S FAMILY
FUNERAL SERVICE, INC.**

719 E. 141st Street
Glenpool, OK 74033

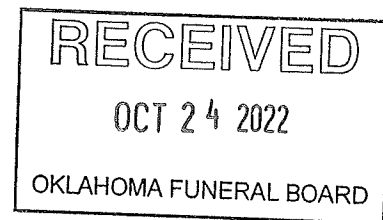
LANE PILKINGTON

Licenses: 3528FD and 3891EM,
Address: 209 South Alabama Ave
Okmulgee, OK 74447

A Licensed Funeral Director and Embalmer
and the Funeral Director in Charge at

SCHAUDT'S FUNERAL HOME,

Complaint No. 23-05



Respondents.

COMPLAINT AND NOTICE OF HEARING

The State of Oklahoma, *ex rel.*, Oklahoma Funeral Board ("Board"), by and through Assistant Attorney General Kylie Cooper, files this Complaint and Notice of Hearing, alleging that the Respondents, LANE PILKINGTON, individually and d/b/a SCHAUDT'S FAMILY FUNERAL SERVICE, INC., and d/b/a OKLAHOMA CREMATION CENTERS (collectively, "Respondents"), have violated provisions of the State Funeral Services Licensing Act, 59 O.S. §

395.1 *et seq.* (the “Act”), and Rules of the Board, Oklahoma Administrative Code (“O.A.C.”) Section 235:10-1-1 *et seq.* (the “Rules”), in the manner set forth below:

JURISDICTION

1. Respondents LANE PILKINGTON (“Pilkington”) operate a business, SCHAUDT’S FAMILY FUNERAL SERVICE, INC. (“Schaudt’s”), located at 719 E 141 St, Glenpool, Oklahoma 74033.

2. Respondent Schaudt’s also conducts business as OKLAHOMA CREMATION CENTERS (“Cremation Center”). This Cremation Center is owned by Schaudt’s. Cremation Center is located at 719 East 141st Street, Glenpool, Oklahoma 74033.

3. The Board has jurisdiction over Respondents pursuant to 59 O.S. §§ 396.2a(9) and (11). *See also* 59 O.S. § 396.12f(F).

FACTUAL ALLEGATIONS

4. On August 9, 2022, the Board received a complaint from Lisa Moser. Ms. Moser’s brother, James Gaskill, is the decedent. Ms. Moser made his arrangements and contacted Oklahoma Cremation Center. During this first contact, Ms. Moser states she confirmed that it would be “completely fine to pick up his remains.” She filled out a form on their website, paid by credit card, and waited as instructed. Upon filling out the forms on Cremation Center’s website, she noticed the only options available were to either deliver her brother’s cremated remains to his service or have them mailed to her directly.

5. When trying to figure out whether Ms. Moser would be able to pick up the decedent’s remains, she was informed that Cremation Center’s facility was “closed to the public,” and that she would have to meet an employee in a parking lot to receive her brother’s cremated remains.

Upon notification that his cremated remains were ready, Cremation Center called Ms. Moser and arranged for her to pick up the ashes in the visitor parking lot of the state Capitol building.

6. Ms. Moser did not receive a General Price List from Oklahoma Cremation Centers. She did not receive a certified death certificate.

7. Schaudt's Glenpool Funeral Service and Cremation have the same address as Cremation Care Center. They are both located at 719 East 141st Street in Glenpool, Oklahoma. Schaudt's operates a website at schaudtfuneralservice.com. Cremation Care's website is greencountrycremation.com.

8. Cremation Care does not maintain an establishment license for the location at 719 East 141st Street.

9. Schaudt's Family Funeral Service, Inc. is located at 719 E. 141st Street in Glenpool, Oklahoma. Oklahoma Cremation Centers is also located at this address. Oklahoma Cremation Centers does not have an establishment license. They do have a crematory license, 81CM.

10. The Board provided Respondents with the Notice of Complaint via certified letter, which was delivered on or about August 15, 2022.

11. Respondents, by and through their attorney, filed their response with the Board on August 18, 2022. Respondents claim that Ms. Moser did receive a General Price List. They also argue that even if she did not receive it, there's no harm they were never required to give her one at all. Respondents argue that because Ms. Moser conducted business with them online and over the phone, "no face-to-face meeting occurred in this instance," and the "triggering event for giving out the GPL" is a face-to-face meeting, they complied with the FTC rules.

12. By public vote during the meeting on September 8, 2022, the Board found probable cause to file a formal complaint against Respondents for the violations alleged herein.

13. The prosecution has sufficient evidence which, if presented to the Board at an evidentiary hearing, would constitute clear and convincing evidence of the alleged violations.

ALLEGED CONCLUSIONS OF LAW

14. Respondents violated 59 O.S. § 396.12(A), (B), and (C), by “holding forth by word or act that the person is engaged in the profession of undertaking or funeral directing shall be deemed as a funeral establishment and shall be licensed as such pursuant to the provisions of the Funeral Services Licensing Act.” Further, “a funeral establishment... shall advertise itself by the name that the establishment is licensed as.” Respondents are operating a website, oklahomacremationcenters.com, for their Cremation Care Center, while alleging that it is a trade name owned by Schaudt’s. Cremation Care Center simultaneously argues that they do not need to obtain anything more than a crematory license, because they operate under licenses held by Schaudt’s.

15. Respondents violated O.A.C. 235:10-7-2(17), (26)(b)(i), (26)(d)(v), and (26)(d)(vi), by falsely advertising and materially misrepresenting Oklahoma Cremation Centers as an online, direct cremation business, open to the public. Under Title 59, Sections 396.12c(A)(4) and (17), engaging in “[f]alse or misleading advertising as a funeral director” and “[v]iolating [59 O.S. § 396.12(B)] regarding advertisement of services at locations not licensed by the Board” subjects Respondents to discipline. Likewise, the Rules prohibit “[t]he use of false or misleading advertising.” O.A.C. 235:10-7-2(17). Moreover, licensees are required to “be honest and trustworthy in the performance of all duties and work performed . . . and shall avoid misrepresentation and deceit in any fashion, whether by acts of commission or omission.” O.A.C. 235:10-7-2(26)(b)(i). Indeed, “[a] licensee shall not provide information he or she knew or should have known was inaccurate, deceitful, or misleading to the Board or a consumer” and “shall not

engage in any activity that constitutes dishonesty, misrepresentation, or fraud.” O.A.C. 235:10-7-2(26)(d)(v) and (vi).

16. Due to the above violations, Respondents are subject to disciplinary action by the Board. See 59 O.S. §§ 396.2a(9) and (11); *id.* at §§ 396.12c(A)(5) and (8); *id.* at § 396.12d; *id.* at § 396.12e.

AUTHORIZED PENALTIES

17. The Board is authorized to impose any of the following penalties for violations of the Act or Rules: (1) denial, revocation, suspension, or nonrenewal of license or certificate of apprenticeship; (2) administrative fines up to ten thousand dollars (\$10,000.00) per series of related violations¹; (3) injunctive proceedings; and (4) other disciplinary action. 59 O.S. §§ 396.12c(5) and (8); *id.* at § 396.12c; *id.* at § 396.12d; *id.* at § 396.12e.

18. Further, the Board is authorized to “impose . . . as a condition of any adverse disciplinary action, the payment of costs expended by the Board in investigating and prosecuting the violation.” 59 O.S. § 396.12e(B). Costs may include, but are not limited to, “staff time, salary and travel expenses, [and] witness fees and attorney fees.” *Id.*

19. In lieu of prosecution, Respondents “may elect to surrender the license or certificate of apprenticeship.” *Id.* at § 396.12e(D). However, should Respondents choose to surrender their licenses and/or certificates of apprenticeship, they “shall be forever barred from obtaining a reissuance of said license or certificate of apprenticeship.” *Id.*

¹ When determining the amount of an administrative penalty, the Board shall consider, but not be limited to:

the nature, circumstances and gravity of the violation and, with respect to the person or entity found to have committed the violation, the degree of culpability, the effect on ability of the person or entity to continue to do business and any show of good faith in attempting to achieve compliance with the provisions of the Funeral Services Licensing Act.

59 O.S. § 396.12e(C).

NOTICE OF HEARING

An **EVIDENTARY HEARING** will be held before the Board on **November 10, 2022 at 10:00 A.M.** Respondents may appear personally or through an attorney. If Respondents fail to appear, the hearing will be held in their absence. Respondents have the right to submit a written response, cross-examine witnesses, and present evidence on their behalf. *See* 75 O.S. §§ 309 and 310. If the Board decides, after considering all the evidence presented, that Respondents are in violation of any of the above-referenced laws, the Board may take any authorized disciplinary action it deems appropriate.

MEETING PLACE:

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The Board asks that only the Respondents use the video camera function.

Telephone

1-408-418-9388
Access Code:
1260612143

Instead of proceeding with the aforementioned hearing, the parties may present a **JOINT PROPOSED CONSENT ORDER** to the Board on the same date and time. *See* 75 O.S. § 309(E).

Respectfully submitted:



Kylie Cooper, OBA # 32758
Assistant Attorney General
Office of the Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105
kylie.cooper@oag.ok.gov
Attorney for Oklahoma Funeral Board

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of October, 2022, a true and correct copy of the foregoing *Complaint and Notice of Hearing* was served as follows:

BY CERTIFIED MAIL:

Carter A. Fox
1515 E. 71st St, Suite 200
Tulsa, OK 74136
cfox@law-lsl.com

Attorney for Respondents

A handwritten signature in black ink, appearing to read "Tyler Stiles", written over a horizontal line.

Tyler Stiles, MBA
Executive Director

§59-396.3. Qualifications and examination of funeral directors and embalmers - Approved schools.

B. 1. Except as provided in subsection C of this section, the minimum requirements for a license to practice funeral directing or embalming, or both, are as follows: The minimum requirements for a license to practice funeral directing or embalming, or both, are as follows: An applicant for a license to practice funeral directing or embalming shall be at least ~~twenty (20)~~ eighteen (18) years of age, a legal resident of this state, a citizen or permanent resident of the United States. In addition, an applicant shall be a graduate of a program of funeral service/mortuary science accredited by the American Board of Funeral Service Education, and have served one (1) year as a registered apprentice. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, or subsequent to graduation from the school and pass the International Conference of Funeral Service Examining Board National Board Science Examination and/or Arts Examination with a 75 or higher on each exam.

C. 1. If a person chooses not to meet the qualifications in subsection B of this section for a funeral director, the person may alternatively qualify for a license to practice funeral directing, but not embalming, upon meeting the eligibility requirements of this subsection as follows: An applicant for a license to practice funeral directing shall be at least ~~twenty (20)~~ eighteen (18) years of age, a legal resident of this state, a citizen or permanent resident of the United States. An applicant is required to complete a funeral director course of study approved by the Oklahoma Funeral Board and that is administered by program of funeral service/mortuary science accredited by the American Board of Funeral Service Education (ABFSE). The funeral director course of Study shall include at least thirty (30) semester hours or Equivalent closely following the ABFSE curriculum standard, limited to only: Business Management, Cremation, Social Sciences/Humanities, Legal, Ethical, Regulatory, plus essential elements of embalming, restorative art, general concerns when dealing with human remains, a practicum experience and preparation for the required board exams. In addition to the funeral director course of study the applicant is required to complete a twelve-month minimum term as a registered apprentice with employment at a licensed establishment and must have assisted with twentyfive arrangement conferences and assisted with twenty-five separate funeral or memorial services under the supervision of a licensed funeral director in this state. The applicant may serve as a registered apprentice prior to enrollment in an approved school of mortuary science, concurrently while in mortuary school, or subsequent to completion of the funeral director course of study.

235:10-3-1. Qualifications for licensing individuals To be licensed in Oklahoma as a funeral director, embalmer, or both, an individual must meet the following minimum requirements:

~~(5) The individual shall have completed the following educational requirements:~~

~~(A) The individual is a graduate of a program of mortuary science accredited by the American Board of Funeral Service Education.~~

~~(B) The individual shall have completed a total of sixty (60) college semester hours of credit at an accredited institution of higher education. (i) Such institution must be accredited by a regional accrediting agency and recognized by the U.S. Department of Education as a valid and legal accrediting agency. (ii) When the institution so accredited extends credit in quarter hours, each quarter hour shall equal 2/3rds of one semester hour. (iii) Courses applied to completing the accredited mortuary science program in excess of the minimum requirements for an accredited program by the American Board of Funeral Service Education may be applied to the (60) total semester hours of college, provided such credits are earned at a regionally accredited institution.~~

~~(6) Individuals who have earned a bachelor degree in funeral service from a regionally accredited institution and American Board of Funeral Service Education accredited mortuary program shall be deemed to have met the educational requirements set for in sections (A) and (B).~~

(5) The individual shall have completed a program of mortuary science accredited by the American Board of Funeral Service Education.

OAC 235:10-3-2. (9)(C) Requirements for licensing funeral service establishments. No licensed funeral director may serve as the Funeral Director-in-Charge of more than one (1) funeral service establishment without the express written authorization of the Board. With the written order of the Board a licensed funeral director, upon good cause shown that such is in the public interest, may serve as a Funeral Director-in-Charge of more than one (1) funeral service establishment but in no event may any such licensed funeral director be the Funeral Director-in-Charge of more than three (3) such funeral service establishments. All of the establishments must be under the same ownership, and no establishment included in the application can be more than a ~~60~~ 90 miles radius from the most centrally located establishment contained in the application. (D) The funeral director-in-charge shall reside and maintain a permanent residence within ~~60~~ 90 miles of the funeral establishment, commercial embalming establishment, or crematory.

END



The Stumpff Corporation



October 24, 2022

To: Tyler Styles
tyler.stiles@funeral.ok.gov
Executive Director - Oklahoma Funeral Board

Re: Request for Interpretation of Board Rule 235:10-3-3. Licensing Commercial Embalming Establishments

As permitted per Board Rule 235:10-1-4, I would like to request interpretation of Board Rule OK 235:10-3-3 *Licensing commercial embalming establishments*, and its application thereof.

As the owner of licensed Oklahoma funeral establishments, my role, among others, is to conduct my business within the boundaries set forth by our rules and applicable law. Any ambiguity which exists in either, or with their application, directly effects how I discharge my duties in this role.

Therefore, I am seeking clarification by means of Interpretation of Board Rule, as to whether or not, Board Rule OK 235:10-3-3 grants authority to, or prohibits Commercial Embalming Establishments from providing various services, directly to the consumer, thus bypassing the licensed funeral establishment.

Specifically, does Board Rule OK 235:10-3-3 **(3)** and its application, allow or prohibit Commercial Embalming Establishments to perform the following...

1. Pick up a decedent's clothing or other items from the consumer, other than during the first call?
2. Deliver death certificates directly to the consumer?
3. Allow consumers to pick up death certificates directly at the Commercial Embalming Establishment?
4. Deliver cremated remains directly to the consumer?
5. Allow consumers to pick up cremated remains directly at the Commercial Embalming Establishment?

It is my understanding that the Board's former Executive Director addressed these very issues in a February 2019 letter sent to Commercial Embalming Establishments. However, questions regarding the Rule and its application remain.

In the official letter, Commercial Embalming Establishments were admonished for bypassing the licensed funeral establishments by providing various services directly



to the general public in violation of Board rule. However, there seems to be a good amount of ambiguity in the Board's current application of this rule so clarification by interpretation is, in my opinion, warranted.

It is my hope that a formal interpretation of Board Rule 235:10-3-3 will resolve any lingering ambiguity and clarify this Rule for all concerned parties.

Respectfully,

A handwritten signature in black ink, appearing to read "David Stumpff", written in a cursive style.

David Stumpff
The Stumpff Corporation
9120 S Toledo Ave.
Tulsa, OK 74137